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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Amendment of Part 90 of the)	PR Docket No. 93-144
Commission's Rules to Facilitate)	RM-8117, RM-8030
Future Development of SMR Systems)	RM-8029
in the 800 MHz Frequency Band)	
Commercial Mobile Radio Services)	
)	
and)	
)	
Implementation of Section 309(j))	
of the Communications Act -)	PP Docket No. 93-253
Competitive Bidding)	
800 MHz SMR)	

**REPLY COMMENTS OF
ANHEUSER-BUSCH COMPANIES, INC.**

Anheuser-Busch Companies, Inc. ("Anheuser-Busch"), by its attorneys, submits these reply comments in the above-captioned dockets.

INTRODUCTION

In the Further Notice of Proposed Rule Making ("Further Notice") of the subject proceeding, the Federal Communications Commission ("Commission") proposes a variety of licensing and competitive bidding rules for the 800 MHz Specialized Mobile Radio ("SMR") service. Among other things, the Commission proposes in the Further Notice to reallocate the 800 MHz SMR

spectrum and auction Major Trading Area ("MTA") and "local" 800 MHz SMR licenses. In addition, the Commission proposes to change the regulation of SMR, business, industrial, land transportation, and public safety licensees for the 800 MHz General Category channels and the Pool Channels. Specifically, the Commission tentatively concludes that it should revise its eligibility rules for the General Category and Pool Channels to prohibit SMR and non-SMR applicants from applying for the same channels in the future. The Further Notice also seeks comment on whether the Commission should (1) eliminate SMR eligibility for all future licensing for the General Category and Pool Channels, (2) designate a portion of the General Category for SMR-only and prohibit future inter-category sharing by SMR applicants on Pool Channels, and (3) designate the entire General Category for future licensing exclusively to SMR applicants. In these reply comments, Anheuser-Busch focuses on the Commission's proposal to alter the eligibility rules for the 800 MHz General Category and Pool Channels.

I. A Significant Number of Commenters Oppose the Commission's Proposal to Change the Eligibility Requirements for the General Category and Pool Channels

A substantial number of commenters oppose the Commission's proposal initiated by Nextel Communications, Inc. ("Nextel") to, among other things, reallocate the 800 MHz SMR spectrum and alter the eligibility require-

ments for the General Category and Pool Channels (the "Nextel proposal"). The adoption of the Nextel proposal would only serve the business needs of Nextel and other 800 MHz SMRs recently reclassified as Commercial Mobile Radio Service ("CMRS") providers at the expense of Anheuser-Busch and others that rely upon the General Category and Pool Channels to meet their internal communications and business needs.¹ It is not surprising, therefore, that the overwhelming majority of the parties that filed comments in support of the Nextel proposal are reclassified 800 MHz CMRS providers.² In fact, several of the commenters supporting Nextel's proposal are affiliated or soon will be affiliated with Nextel.³

Like many large businesses, Anheuser-Busch has relied upon the General Category and Pool Channels in the past to meet the trunked internal

¹ For example, Nextel observes that the Commission should adopt its proposal in order to "enable SMRs to do as they were intended to do -- to undertake the investments and risks required to introduce the advanced technologies essential in congested areas to meet the public's demand for improved mobile communications services." Comments of Nextel at 7.

² See, e.g., Comments of OneComm at 11-12, Nextel Comments at 1-2, CellCall, Inc. ("CellCall") Comments at 6-8, and Comments of the Cellular Telecommunications Industry Association ("CTIA") at 4-6.

³ See Comments of Chadmoore Communications, Inc. ("Chadmoore") at 7, n.10 (noting the identity of interests between Nextel, Motorola, Inc., Dial Call and OneComm Corporation); see also, Comments of The Ericsson Corporation ("Ericsson") at 2-3 (citing Land Mobile Radio News, Volume 48, No. 47, p.1, December 2, 1994) (recognizing the potential partnership among Nextel, Motorola, OneComm and Dial Page, Inc.).

mobile communications requirements of its facilities.⁴ The Commission's existing policies for the General Category⁵ and Pool Channels provide entities like Anheuser-Busch with the flexibility to meet evolving communications requirements in an era of growing demand for mobile services' spectrum. Without access to the General Category and Pool Channels, Anheuser-Busch and many other companies would not be able to adequately serve the communications needs of their facilities.

Moreover, despite the proposal's clear pecuniary benefits for 800 MHz CMRS providers, Anheuser-Busch submits that the public interest requires the Commission to consider the potential adverse impact of the Nextel proposal on Private Mobile Radio Service ("PMRS") licensees like Anheuser-Busch. Specifically, changing the eligibility rules for the General Category and Pool Channels to facilitate Nextel's larger proposal to reallocate the 800 MHz SMR spectrum would further restrict the ability of PMRS providers such as public safety, business, and industrial/land transportation licensees to acquire sufficient

⁴ See, e.g., U.S. Sugar Corporation ("U.S. Sugar") Comments at 2-3, and Comments of the Utilities Telecommunications Council ("UTC") at 2 and 4.

⁵ Under the Commission's Rules, upon meeting certain conditions, licensees of trunked systems may add conventional General Category channels to their systems. See, e.g., 47 C.F.R. § 90.631.

capacity for their systems.⁶ In addition, Nextel's proposal would require PMRS incumbents to reconfigure their systems after having spent millions of dollars in establishing their systems to conform to the existing regulatory regime.⁷ In support of this view, ITA/APEL emphasized in their Joint Comments that the proposal would increase the scarcity of 800 MHz frequencies for PMRS uses.⁸ Moreover, several small or "local" SMR operators contend that the proposal would also restrict their ability to expand their operations and could have anticompetitive consequences within the 800 MHz SMR market.⁹ Accordingly, because the Nextel proposal is contrary to the public interest, Anheuser-Busch recommends that the Commission maintain the existing eligibility requirements for the General Category and Pool Channels.

⁶ See, generally, Comments of the American Petroleum Institute, the Association of Public Safety Communications Officials, UTC and the Industrial Telecommunications Association, Inc. and the Alliance of Private 800/900 MHz Licensees ("ITA/APEL").

⁷ Cf. Comments of UTC at 4.

⁸ See ITA/APEL Joint Comments at 4; see also Comments of the Personal Communications Industry Association at 15 (noting that the proposal would worsen the current problem of scarce 800 MHz frequencies for PMRS incumbents).

⁹ See, e.g., Comments of Chadmoore at 8 (noting that "[b]ecause the Commission's proposal is so closely tailored to the needs of a single competitor, adoption of this proposal will lead to anticompetitive results").

II. No Commentors Offered Compelling Evidence in Support of the Commission's Authority to Change the Way "Private Services" are Licensed Merely to Auction 800 MHz SMR Spectrum

The Nextel proposal to reallocate the 800 MHz SMR spectrum and separate SMR spectrum from the spectrum shared with PMRS services in the General Category and Pool Channels would significantly change how "private services" are licensed.¹⁰ Specifically, traditionally private radio licensees would no longer be eligible for SMR channels in markets where only SMR frequencies are available, and vice-versa. Therefore, Anheuser-Busch and many other companies would have even fewer options available for expansion of their internal use systems located in key markets around the United States.

As the Commission has recognized in the auction proceeding, in authorizing spectrum auctions Congress did not intend to alter the manner in which "private services" are licensed.¹¹ Therefore, because the Nextel proposal would alter the way private services are licensed merely to create more

¹⁰ The term "private services" was used in the Budget Act of 1993 and interpreted by the Commission in the competitive bidding proceeding to refer to non-compensatory communications services. See Second Report and Order, PP Docket No. 93-253, 9 FCC Rcd 2348, 2352 (1994) (citing H.R. Rep. No. 103-111 at 253).

¹¹ Id.

auctionable 800 MHz spectrum, Anheuser-Busch submits that the Nextel proposal is at variance with the intent of Congress.¹²

No party to this proceeding has presented a compelling legal or factual argument that supports the Commission's basis for altering the way private services are licensed in order to adopt an 800 MHz auction scheme. Anheuser-Busch, therefore, agrees with the numerous commenters in this proceeding that the Commission should not alter the General Category and Pool Channel eligibility rules merely to create more "auctionable" spectrum.¹³

¹² See, e.g., Dial Call Comments at 10, American Mobile Telecommunications Association, Inc. Comments at 7-8, and 22, and CellCall Comments at 24-27.

¹³ See, e.g., PCIA Comments at 18-19 and Dial Call Comments at 12-13.

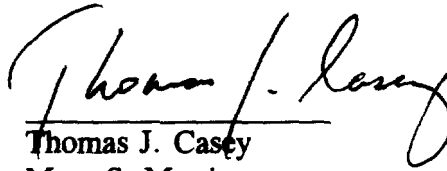
CONCLUSION

For the aforementioned reasons, Anheuser-Busch submits that the Commission should not alter the existing eligibility rules for the 800 MHz General Category and Pool Channels.

Respectfully submitted by:

ANHEUSER-BUSCH COMPANIES, INC.

By:

A handwritten signature in dark ink, appearing to read "Thomas J. Casey", written over a horizontal line.

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Dated: March 1, 1995


CERTIFICATE OF SERVICE

I, Gaston de Béarn, on this 1st day of March, 1995, do hereby certify that a complete copy of the foregoing Reply Comments of Anheuser-Busch Companies, Inc. has been served via hand-delivery on the following:

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